

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation)
Against:)**

KHOI MANH LE, M.D.)

Case No. 800-2015-016568

**Physician's and Surgeon's)
Certificate No. A77166)**

**Respondent)
_____)**

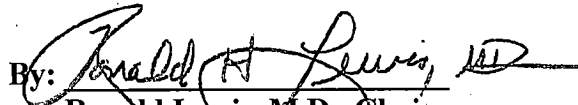
DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on August 31, 2018.

IT IS SO ORDERED August 1, 2018.

MEDICAL BOARD OF CALIFORNIA

By: 
**Ronald Lewis, M.D., Chair
Panel A**

1 XAVIER BECERRA
Attorney General of California
2 MATTHEW M. DAVIS
Supervising Deputy Attorney General
3 DEMOND L. PHILSON
Deputy Attorney General
4 State Bar No. 220220
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7 *Attorneys for Complainant*

8 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 800-2015-016568

12 **KHOI MANH LE, M.D.**
1681 E. Banwell Lane
13 Fresno, CA 93730

OAH No. 2018020525

14 Physician's and Surgeon's Certificate No. No.
15 A 77166

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16 Respondent.

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
22 of California (Board). She brought this action solely in her official capacity and is represented in
23 this matter by Xavier Becerra, Attorney General of the State of California, by Demond L. Philson,
24 Deputy Attorney General.

25 2. Respondent Khoi Manh Le, M.D. (Respondent) is represented in this proceeding by
26 attorney Gregory Abrams, whose address is: 6045 Shirley Drive, Oakland, CA 94611.

27 3. On or about November 21, 2001, the Board issued Physician's and Surgeon's
28 Certificate No. No. A 77166 to Khoi Manh Le, M.D.. The Physician's and Surgeon's Certificate

1 No. A 77166 was in full force and effect at all times relevant to the charges brought in Accusation
2 No. 800-2015-016568, and will expire on January 31, 2019, unless renewed.

3 JURISDICTION

4 4. Accusation No. 800-2015-016568 was filed before the Board, and is currently
5 pending against Respondent. The Accusation and all other statutorily required documents were
6 properly served on Respondent on June 12, 2017. Respondent timely filed his Notice of Defense
7 contesting the Accusation.

8 5. A copy of Accusation No. 800-2015-016568 is attached as exhibit A and incorporated
9 herein by reference.

10 ADVISEMENT AND WAIVERS

11 6. Respondent has carefully read, fully discussed with counsel, and understands the
12 charges and allegations in Accusation No. 800-2015-016568. Respondent has also carefully read,
13 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
14 Disciplinary Order.

15 7. Respondent is fully aware of his legal rights in this matter, including the right to a
16 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
17 the witnesses against him; the right to present evidence and to testify on his own behalf; the right
18 to the issuance of subpoenas to compel the attendance of witnesses and the production of
19 documents; the right to reconsideration and court review of an adverse decision; and all other
20 rights accorded by the California Administrative Procedure Act and other applicable laws.

21 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
22 every right set forth above.

23 CULPABILITY

24 9. Respondent understands that the charges and allegations in Accusation No. 800-2015-
25 016568, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and
26 Surgeon's certificate.

27 10. For the purpose of resolving the Accusation without the expense and uncertainty of
28 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a prima

1 facie case with respect to the charges and allegations contained in Accusation No. 800-2015-
2 016568, and that those charges and allegations constitute cause for discipline. Respondent hereby
3 gives up his right to contest that cause for discipline exists based on those charges.

4 11. Respondent agrees that if he ever petitions for early termination or modification of
5 probation, or if an accusation and/or petition to revoke probation is filed against him before the
6 Board, all of the charges and allegations contained in Accusation No. 800-2015-016568, shall be
7 deemed true, correct, and fully admitted by respondent for purposes of any such proceeding or
8 any other licensing proceeding involving respondent in the State of California.

9 12. Respondent agrees that his Physician's and Surgeon's Certificate No. A 77166 is
10 subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in
11 the Disciplinary Order below.

12 CONTINGENCY

13 13. This stipulation shall be subject to approval by the Medical Board of California.
14 Respondent understands and agrees that counsel for Complainant and the staff of the Medical
15 Board of California may communicate directly with the Board regarding this stipulation and
16 settlement, without notice to or participation by Respondent or his counsel. By signing the
17 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
18 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
19 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
20 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
21 action between the parties, and the Board shall not be disqualified from further action by having
22 considered this matter.

23 14. The parties understand and agree that Portable Document Format (PDF) and facsimile
24 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
25 signatures thereto, shall have the same force and effect as the originals.

26 ///

27 ///

28 ///

1 15. In consideration of the foregoing admissions and stipulations, the parties agree that
2 the Board may, without further notice or formal proceeding, issue and enter the following
3 Disciplinary Order:

4 **DISCIPLINARY ORDER**

5 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. No. A 77166
6 issued to Respondent Khoi Manh Le, M.D. is revoked.

7 1. **STANDARD STAY ORDER**. However, the revocation is stayed and Respondent is
8 placed on probation for five (5) years on the following terms and conditions.

9 2. **PROFESSIONALISM PROGRAM (ETHICS COURSE)**. Within 60 calendar days of
10 the effective date of this Decision, Respondent shall enroll in a professionalism program, that
11 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.
12 Respondent shall participate in and successfully complete that program. Respondent shall
13 provide any information and documents that the program may deem pertinent. Respondent shall
14 successfully complete the classroom component of the program not later than six (6) months after
15 Respondent's initial enrollment, and the longitudinal component of the program not later than the
16 time specified by the program, but no later than one (1) year after attending the classroom
17 component. The professionalism program shall be at Respondent's expense and shall be in
18 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

19 A professionalism program taken after the acts that gave rise to the charges in the
20 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
21 or its designee, be accepted towards the fulfillment of this condition if the program would have
22 been approved by the Board or its designee had the program been taken after the effective date of
23 this Decision.

24 Respondent shall submit a certification of successful completion to the Board or its
25 designee not later than 15 calendar days after successfully completing the program or not later
26 than 15 calendar days after the effective date of the Decision, whichever is later.

27 3. **PROFESSIONAL BOUNDARIES PROGRAM**. Within 60 calendar days from the
28 effective date of this Decision, Respondent shall enroll in a professional boundaries program

1 approved in advance by the Board or its designee. Respondent, at the program's discretion, shall
2 undergo and complete the program's assessment of Respondent's competency, mental health
3 and/or neuropsychological performance, and at minimum, a 24 hour program of interactive
4 education and training in the area of boundaries, which takes into account data obtained from the
5 assessment and from the Decision(s), Accusation(s) and any other information that the Board or
6 its designee deems relevant. The program shall evaluate Respondent at the end of the training
7 and the program shall provide any data from the assessment and training as well as the results of
8 the evaluation to the Board or its designee.

9 Failure to complete the entire program not later than six (6) months after Respondent's
10 initial enrollment shall constitute a violation of probation unless the Board or its designee agrees
11 in writing to a later time for completion. Based on Respondent's performance in and evaluations
12 from the assessment, education, and training, the program shall advise the Board or its designee
13 of its recommendation(s) for additional education, training, psychotherapy and other measures
14 necessary to ensure that Respondent can practice medicine safely. Respondent shall comply with
15 program recommendations. At the completion of the program, Respondent shall submit to a final
16 evaluation. The program shall provide the results of the evaluation to the Board or its designee.
17 The professional boundaries program shall be at Respondent's expense and shall be in addition to
18 the Continuing Medical Education (CME) requirements for renewal of licensure.

19 The program has the authority to determine whether or not Respondent successfully
20 completed the program.

21 A professional boundaries course taken after the acts that gave rise to the charges in the
22 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
23 or its designee, be accepted towards the fulfillment of this condition if the course would have
24 been approved by the Board or its designee had the course been taken after the effective date of
25 this Decision.

26 If Respondent fails to complete the program within the designated time period, Respondent
27 shall cease the practice of medicine within three (3) calendar days after being notified by the
28 Board or its designee that Respondent failed to complete the program.

1 4. PSYCHIATRIC EVALUATION. Within 30 calendar days of the effective date of
2 this Decision, and on whatever periodic basis thereafter may be required by the Board or its
3 designee, Respondent shall undergo and complete a psychiatric evaluation (and psychological
4 testing, if deemed necessary) by a Board-appointed board certified psychiatrist, who shall
5 consider any information provided by the Board or designee and any other information the
6 psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its
7 designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not
8 be accepted towards the fulfillment of this requirement. Respondent shall pay the cost of all
9 psychiatric evaluations and psychological testing.

10 Respondent shall comply with all restrictions or conditions recommended by the evaluating
11 psychiatrist within 15 calendar days after being notified by the Board or its designee.

12 5. PSYCHOTHERAPY. Within 60 calendar days of the effective date of this Decision,
13 Respondent shall submit to the Board or its designee for prior approval the name and
14 qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who
15 has a doctoral degree in psychology and at least five years of postgraduate experience in the
16 diagnosis and treatment of emotional and mental disorders. Upon approval, Respondent shall
17 undergo and continue psychotherapy treatment, including any modifications to the frequency of
18 psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

19 The psychotherapist shall consider any information provided by the Board or its designee
20 and any other information the psychotherapist deems relevant and shall furnish a written
21 evaluation report to the Board or its designee. Respondent shall cooperate in providing the
22 psychotherapist with any information and documents that the psychotherapist may deem
23 pertinent.

24 Respondent shall have the treating psychotherapist submit quarterly status reports to the
25 Board or its designee. The Board or its designee may require Respondent to undergo psychiatric
26 evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of
27 probation, Respondent is found to be mentally unfit to resume the practice of medicine without
28 restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the

1 period of probation shall be extended until the Board determines that Respondent is mentally fit
2 to resume the practice of medicine without restrictions.

3 Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

4 6. THIRD PARTY CHAPERONE. During probation, Respondent shall have a third
5 party chaperone present while consulting, examining or treating female patients. Respondent
6 shall, within 30 calendar days of the effective date of the Decision, submit to the Board or its
7 designee for prior approval name(s) of persons who will act as the third party chaperone.

8 If Respondent fails to obtain approval of a third party chaperone within 60 calendar days of
9 the effective date of this Decision, Respondent shall receive a notification from the Board or its
10 designee to cease the practice of medicine within three (3) calendar days after being so notified.
11 Respondent shall cease the practice of medicine until a chaperone is approved to provide
12 monitoring responsibility.

13 Each third party chaperone shall sign (in ink or electronically) and date each patient
14 medical record at the time the chaperone's services are provided. Each third party chaperone
15 shall read the Decision(s) and the Accusation(s), and fully understand the role of the third party
16 chaperone.

17 Respondent shall maintain a log of all patients seen for whom a third party chaperone is
18 required. The log shall contain the: 1) patient initials, address and telephone number; 2) medical
19 record number; and 3) date of service. Respondent shall keep this log in a separate file or ledger,
20 in chronological order, shall make the log available for immediate inspection and copying on the
21 premises at all times during business hours by the Board or its designee, and shall retain the log
22 for the entire term of probation.

23 Respondent is prohibited from terminating employment of a Board-approved third party
24 chaperone solely because that person provided information as required to the Board or its
25 designee.

26 If the third party chaperone resigns or is no longer available, Respondent shall, within five
27 (5) calendar days of such resignation or unavailability, submit to the Board or its designee, for
28 prior approval, the name of the person(s) who will act as the third party chaperone. If Respondent

1 fails to obtain approval of a replacement chaperone within 30 calendar days of the resignation or
2 unavailability of the chaperone, Respondent shall receive a notification from the Board or its
3 designee to cease the practice of medicine within three (3) calendar days after being so notified.
4 Respondent shall cease the practice of medicine until a replacement chaperone is approved and
5 assumes monitoring responsibility.

6 7. PROHIBITED PRACTICE. During probation, Respondent is prohibited from
7 treating female patients under eighteen (18) years of age. After the effective date of this
8 Decision, all patients being treated by the Respondent shall be notified that the Respondent is
9 prohibited from treating female patients under eighteen (18) years of age. Any new patients must
10 be provided this notification at the time of their initial appointment.

11 Respondent shall maintain a log of all patients to whom the required oral notification was
12 made. The log shall contain the: 1) patient's name, address and phone number; 2) patient's
13 medical record number, if available; 3) the full name of the person making the notification; 4) the
14 date the notification was made; and 5) a description of the notification given. Respondent shall
15 keep this log in a separate file or ledger, in chronological order, shall make the log available for
16 immediate inspection and copying on the premises at all times during business hours by the Board
17 or its designee, and shall retain the log for the entire term of probation.

18 8. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
19 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
20 Chief Executive Officer at every hospital where privileges or membership are extended to
21 Respondent, at any other facility where Respondent engages in the practice of medicine,
22 including all physician and locum tenens registries or other similar agencies, and to the Chief
23 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
24 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
25 calendar days.

26 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

27 9. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE
28 NURSES. During probation, Respondent is prohibited from supervising physician assistants and

1 advanced practice nurses.

2 10. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
3 governing the practice of medicine in California and remain in full compliance with any court
4 ordered criminal probation, payments, and other orders.

5 11. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
6 under penalty of perjury on forms provided by the Board, stating whether there has been
7 compliance with all the conditions of probation.

8 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
9 of the preceding quarter.

10 12. GENERAL PROBATION REQUIREMENTS.

11 Compliance with Probation Unit

12 Respondent shall comply with the Board's probation unit.

13 Address Changes

14 Respondent shall, at all times, keep the Board informed of Respondent's business and
15 residence addresses, email address (if available), and telephone number. Changes of such
16 addresses shall be immediately communicated in writing to the Board or its designee. Under no
17 circumstances shall a post office box serve as an address of record, except as allowed by Business
18 and Professions Code section 2021(b).

19 Place of Practice

20 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
21 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
22 facility.

23 License Renewal

24 Respondent shall maintain a current and renewed California physician's and surgeon's
25 license.

26 Travel or Residence Outside California

27 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
28 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty

1 (30) calendar days.

2 In the event Respondent should leave the State of California to reside or to practice
3 ,Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
4 departure and return.

5 13. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
6 available in person upon request for interviews either at Respondent's place of business or at the
7 probation unit office, with or without prior notice throughout the term of probation.

8 14. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
9 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
10 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
11 defined as any period of time Respondent is not practicing medicine as defined in Business and
12 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
13 patient care, clinical activity or teaching, or other activity as approved by the Board. If
14 Respondent resides in California and is considered to be in non-practice, Respondent shall
15 comply with all terms and conditions of probation. All time spent in an intensive training
16 program which has been approved by the Board or its designee shall not be considered non-
17 practice and does not relieve Respondent from complying with all the terms and conditions of
18 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
19 on probation with the medical licensing authority of that state or jurisdiction shall not be
20 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
21 period of non-practice.

22 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
23 months, Respondent shall successfully complete the Federation of State Medical Boards's Special
24 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program
25 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model
26 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

27 Respondent's period of non-practice while on probation shall not exceed two (2) years.

28 Periods of non-practice will not apply to the reduction of the probationary term.

1 Periods of non-practice for a Respondent residing outside of California will relieve
2 Respondent of the responsibility to comply with the probationary terms and conditions with the
3 exception of this condition and the following terms and conditions of probation: Obey All Laws;
4 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or
5 Controlled Substances; and Biological Fluid Testing..

6 15. COMPLETION OF PROBATION. Respondent shall comply with all financial
7 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
8 completion of probation. Upon successful completion of probation, Respondent's certificate shall
9 be fully restored.

10 16. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
11 of probation is a violation of probation. If Respondent violates probation in any respect, the
12 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
13 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,
14 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have
15 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
16 the matter is final.

17 17. LICENSE SURRENDER. Following the effective date of this Decision, if
18 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
19 the terms and conditions of probation, Respondent may request to surrender his or her license.
20 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
21 determining whether or not to grant the request, or to take any other action deemed appropriate
22 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
23 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
24 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
25 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
26 application shall be treated as a petition for reinstatement of a revoked certificate.

27 18. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
28 with probation monitoring each and every year of probation, as designated by the Board, which

1 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
2 California and delivered to the Board or its designee no later than January 31 of each calendar
3 year.

4 ACCEPTANCE


5 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
6 discussed it with my attorney, Gregory Abrams. I understand the stipulation and the effect it will
7 have on my Physician's and Surgeon's Certificate No. A 77166. I enter into this Stipulated
8 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
9 bound by the Decision and Order of the Medical Board of California.

10
11 DATED: 6-8-18


12 KHOI MANH LE, M.D.
Respondent

13 I have read and fully discussed with Respondent Khoi Manh Le, M.D. the terms and
14 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
15 I approve its form and content.

16 DATED: June 8, 2018


17 GREGORY ABRAMS
Attorney for Respondent

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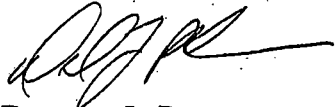
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

Dated: 6/15/18

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General


DEMOND L. PHILSON
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2015-016568

1 XAVIER BECERRA
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7 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO JULY 21 2017
BY: *[Signature]* ANALYST

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10 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 800-2015-016568

14 **Khoi Manh Le, M.D.**
15 **6323 N. Fresno St., Ste. 105**
Fresno, CA 93710-5282

A C C U S A T I O N

16 **Physician's and Surgeon's Certificate No.**
17 **No. A 77166,**

Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
22 capacity as the Executive Director of the Medical Board of California, Department of Consumer
23 Affairs (Board).

24 2. On or about November 21, 2001, the Medical Board issued Physician's and Surgeon's
25 Certificate No. A 77166 to Khoi Manh Le, M.D. (Respondent). Physician's and Surgeon's
26 Certificate No. A 77166 was in full force and effect at all times relevant to the charges brought
27 herein and will expire on January 31, 2019, unless renewed.
28

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2227 of the Code, states:

(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

(1) Have his or her license revoked upon order of the board.

(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.

5. Section 2234 of the Code, states:

“The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

“(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

1 “(b) Gross negligence.

2 “(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or
3 omissions. An initial negligent act or omission followed by a separate and distinct departure from
4 the applicable standard of care shall constitute repeated negligent acts.

5 “(1) An initial negligent diagnosis followed by an act or omission medically appropriate
6 for that negligent diagnosis of the patient shall constitute a single negligent act.

7 “(2) When the standard of care requires a change in the diagnosis, act, or omission that
8 constitutes the negligent act described in paragraph (1), including, but not limited to, a
9 reevaluation of the diagnosis or a change in treatment, and the licensee’s conduct departs from the
10 applicable standard of care, each departure constitutes a separate and distinct breach of the
11 standard of care.

12 “(d) Incompetence.

13 “(e) The commission of any act involving dishonesty or corruption which is substantially
14 related to the qualifications, functions, or duties of a physician and surgeon.

15 “(f) Any action or conduct which would have warranted the denial of a certificate.

16 “(g) The practice of medicine from this state into another state or country without meeting
17 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not
18 apply to this subdivision. This subdivision shall become operative upon the implementation of the
19 proposed registration program described in Section 2052.5.

20 “(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and
21 participate in an interview by the board. This subdivision shall only apply to a certificate holder
22 who is the subject of an investigation by the board.”

23 6. Section 2236 of the Code states:

24 “ (a) The conviction of any offense substantially related to the qualifications, functions, or
25 duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this
26 chapter [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive
27 evidence only of the fact that the conviction occurred.

28 “(b) The district attorney, city attorney, or other prosecuting agency shall notify the

1 Medical Board of the pendency of an action against a licensee charging a felony or misdemeanor
2 immediately upon obtaining information that the defendant is a licensee. The notice shall identify
3 the licensee and describe the crimes charged and the facts alleged. The prosecuting agency shall
4 also notify the clerk of the court in which the action is pending that the defendant is a licensee,
5 and the clerk shall record prominently in the file that the defendant holds a license as a physician
6 and surgeon.

7 “(c) The clerk of the court in which a licensee is convicted of a crime shall, within 48 hours
8 after the conviction, transmit a certified copy of the record of conviction to the board. The
9 division may inquire into the circumstances surrounding the commission of a crime in order to fix
10 the degree of discipline or to determine if the conviction is of an offense substantially related to
11 the qualifications, functions, or duties of a physician and surgeon.

12 “(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to
13 be a conviction within the meaning of this section and Section 2236.1. The record of conviction
14 shall be conclusive evidence of the fact that the conviction occurred.”

15 7. Unprofessional conduct under Business and Professions Code section 2234 is conduct
16 which breaches the rules or ethical code of the medical profession, or conduct which is
17 unbecoming to a member in good standing of the medical profession, and which demonstrates an
18 unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564,
19 575.)

20 **DISCIPLINARY CONSIDERATIONS**

21 8. To determine the degree of discipline, if any, to be imposed on Respondent Khoi
22 Manh Le, M.D., Complainant alleges that on or about November 19, 2001, in a prior disciplinary
23 action entitled In the Matter of the Statement of Issues Against Khoi Manh Le, M.D. before the
24 Medical Board of California, in Case Number 20-2001-123620, Respondent was issued a license,
25 which was immediately revoked, revocation stayed, and the license was placed on probation for
26 two years, with other terms and conditions including but not limited to Community Service,
27 Ethics Course, and other standard terms and conditions for dishonesty, knowingly making a false
28 statement of fact on application, and conviction of a crime. Respondent was convicted by plea of

1 nolo contendere to Penal Code section 1205, subdivision (A), a misdemeanor (carrying a weapon
2 concealed within vehicle or person). That decision is now final and is incorporated by reference as
3 if fully set forth herein.

4 **FIRST CAUSE FOR DISCIPLINE**

5 **(Substantially-Related Conviction)**

6 9. Respondent has subjected his Physician's and Surgeon's Certificate No. A 77166 to
7 disciplinary action under sections 2227 and 2234, as defined by section 2236 of the Code, in that
8 he has been convicted of a crime substantially related to the qualifications, functions, or duties of
9 a physician and surgeon, as more particularly alleged hereinafter:

10 10. On or about July 15, 2015, a Fresno Police Officer was dispatched to Fresno High
11 school in order to investigate a complaint alleging that a student who was participating in the
12 Doctors Academy Program at Community Medical Centers, Fresno, California was sexually
13 harassed by the Respondent. Respondent is a cardiologist that treated patients at Community
14 Medical Centers.

15 11. On or around July 6, 2015, Respondent offered to provide a minor student help with
16 advice related to college admissions and career plans. At that time, Respondent gave the student
17 his mobile telephone number. When the student sent Respondent a text message, he responded by
18 providing her with another mobile telephone number. The student then contacted Respondent at
19 the second mobile telephone number he provided. Early in the exchange of text messages, the
20 student told Respondent that she was 17 years old. Nevertheless, Respondent proceeded to send
21 her a number of inappropriate sexually oriented text messages. These text messages included, but
22 were not limited to, messages encouraging the student to come to the hospital so Respondent
23 could spend time alone with her, and offers to engage in physical acts with the student.
24 Respondent misused the trust placed in him to send sexually oriented communications to a minor
25 high school student who came into contact with him because she was interested in pursuing a
26 career in medicine.

27 12. Based upon the Respondent's sexually inappropriate communications with the minor
28 student, Respondent's actions were investigated by the Fresno Police Department's Sexual

1 Assault Unit and sent to the Fresno County District Attorney's Office for filing of a criminal
2 complaint.

3 13. On November 24, 2015, a criminal complaint entitled *The People of the State of*
4 *California v. Khoi Manh Le*, filed in Superior Court of Fresno County, Case Number 15931231,
5 charged Respondent with violating California Penal Code section 647.6(a) (annoying or molesting
6 a minor child), a misdemeanor.

7 14. On March 6, 2017, the criminal complaint was amended charging Respondent with
8 violating California Penal Code section 653m(b) Anonymous Telephone Calls, a misdemeanor.

9 15. On March 6, 2017, Respondent entered a plea of nolo contendere to California Penal
10 Code section 653m(b) Anonymous Telephone Calls, a misdemeanor. Respondent entered into a
11 Conditional Settlement which included agreeing that he have no additional arrests based upon
12 probable cause for six (6) months and attend counseling sessions.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Unprofessional Conduct)**

15 16. Respondent has further subjected his Physician's and Surgeon's Certificate No. A
16 77166 to disciplinary action under sections 2227 and 2234 of the Code, in that he has engaged in
17 conduct which breaches the rules or ethical code of the medical profession, or conduct which is
18 unbecoming to a member in good standing of the medical profession, and which demonstrates an
19 unfitness to practice medicine, as more particularly alleged hereinafter:

20 17. Paragraphs 8 through 13 above, are repeated here as if fully set forth.

21 18. Respondent's conduct as described above constitutes unprofessional conduct in
22 violation of section 2234 of the Code and thereby provides cause for discipline of Respondent's
23 Physician's and Surgeon's certificate.

24 **PRAYER**

25 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
26 and that following the hearing, the Medical Board of California issue a decision:

27 1. Revoking or suspending Physician's and Surgeon's Certificate No. A 77166, issued to
28 Khoi Manh Le, M.D.;

1 2. Revoking, suspending or denying approval of Khoi Manh Le, M.D.'s authority to
2 supervise physician assistants and advanced practice nurses;

3 3. Ordering Khoi Manh Le, M.D., if placed on probation, to pay the Board the costs of
4 probation monitoring; and

5 4. Taking such other and further action as deemed necessary and proper.

6
7 DATED: July 21, 2017


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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